

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DACOLA SHORES PROPERTIES, LLC,

Plaintiff,

Docket No.: _____

vs.

ERIE INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

Defendant, Erie Insurance Company (“Erie”), files this Notice pursuant to 28 U.S.C. §§ 1441(b), 1446.

Introduction

1. Plaintiff, Dacula Shores Properties, LLC, commenced this action by filing a summons with notice in the Livingston County Clerk’s Office on or about November 25, 2015. A copy of plaintiff’s summons with notice is attached hereto as Exhibit A.

2. Erie is a corporation organized under the laws of the State of Pennsylvania, with a principal place of business located at 100 Erie Insurance Place, Erie, Pennsylvania 16530.

3. Erie timely files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

Nature of Suit

4. Plaintiff, in its summons with notice, seeks damages for breach of an insurance contract. Plaintiff alleges that its breach of contract damages are \$73,528.13, plus consequential damages for loss of use, which, upon information and belief, make the amount in controversy in excess of \$75,000.00.

Basis for Removal

5. Removal is proper based upon diversity:

(A) There is complete diversity between the proper parties to this lawsuit under 28 U.S.C. § 1332. Erie is a Pennsylvania corporation organized under the laws of the State of Pennsylvania with its principal place of business in Erie, Pennsylvania at the address identified above.

(B) Upon information and belief, Dacula Shores Properties, LLC, is a New York limited liability company with its principal place of business located 1770 Emerson Street, Rochester, New York. Accordingly, there is diversity between the appropriate parties in this case. *See Exhibit A.*

(C) The amount in controversy exceeds \$75,000.

(D) A true copy of the summons with notice is attached hereto and incorporated by reference. *See* Exhibit A. Plaintiff served its summons with notice on the New York State Department of Financial Services on March 21, 2016 at its offices in Albany, New York. Erie received the summons with notice from the New York State Department of Financial Services on March 28, 2016. A copy of the notice Erie received from the Department of Financial Services is attached hereto as part of Exhibit A.

The Notice of Removal Procedurally is Correct

6. Defendant's Notice of Removal procedurally is correct as there is diversity among the parties at issue in this case, and the amount in controversy exceeds \$75,000.

7. As required by 28 U.S.C. § 1446(b), Erie has filed this Notice of Removal within 30 days of receiving plaintiff's summons and complaint.

8. Also as required by 28 U.S.C. § 1446(b), Erie has filed this Notice within one year of the commencement of this action.

9. Defendant attaches to this Notice all pleadings, process, orders and all other filings in the State Court action as required by 28 U.S.C. § 1446(a) and this Court's local rules.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1441(a) because the Western District of New York includes the place in which the state action has been pending.

11. Erie properly will file a copy of this Notice of Removal with the Clerk of the State Court in which this action is pending.

Dated: April 20, 2016
Buffalo, New York

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